

COPY

Opinion

September 28, 1956

Mr. William H. Messeck, Jr.
State Forester
Forestry and Recreation Commission
Concord, New Hampshire

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CONCORD, N.H.

Dear Sir:

You have requested the opinion of this office as to whether the State should reimburse a town for one-half the cost of fighting a fire which was started through the negligence of an individual operating an incinerator under a permit.

Under the provisions of RSA 224:15, the State is required to pay one-half the cost of the suppression of forest fires in towns unless such fires were caused by the negligence of the town or its agents. There is another section of the law which provides that any person by whose negligence any fire shall be caused shall be liable in a civil action for the payment to the town, or to the state or both, of the expenses incurred. A determination by your Commission that a fire was caused by a person under this section does not relieve the state from its liability to participate in the payment of the expenses incurred. Once you have determined that the cause of the fire was not the negligence of the town or its agents the state must then pay its equal share of the fire under section 15.

Very truly yours,

Arthur E. Bean, Jr.
Assistant Attorney General

AEB,Jr/t